

MAR 06 2006

PATENT

IBM/112  
Confirmation No. 6131**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this paper and the enclosures noted herein (8 total pages, including cover sheet) is being facsimile transmitted to the Commissioner for Patents at facsimile telephone number 571-273-8300 on March 6, 2006.

Judith L. Volk  
Judith L. Volk

March 6, 2006  
Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Troy David Armstrong et al. Art Unit: 2182  
Serial No.: 09/456,211 Examiner: Joshua D. Schneider  
Filed: December 7, 1999 Atty. Docket No.: IBM/112  
For: FAIR ELEVATOR SCHEDULING ALGORITHM FOR DIRECT ACCESS  
STORAGE DEVICE

**PETITION UNDER 37 C.F.R. § 1.181(a)**  
**REQUESTING WITHDRAW OF HOLDING OF ABANDONMENT**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

On February 27, 2006, the undersigned attorney received a Notice of Abandonment from the USPTO dated February 22, 2006 in the above-identified patent application filed. According to the Notice of Abandonment, this application was deemed abandoned in view of Applicants' failure to timely pay the issue fee in reply to the Notice of Allowance and Fee(s) Due dated October 7, 2005. Pursuant to 37 C.F.R. § 1.181(a), Applicants hereby request reconsideration of the holding of abandonment and request withdraw of the abandonment, as the Notice of Allowance and Fee(s) Due was not received by Applicants. This petition is being filed within two months from the mailing date of the Notice of Abandonment, and is therefore timely filed.

The undersigned attorney of record states that, based upon a search of the file jacket and docket records for the above-identified patent application, the Notice of Allowance was not received by the undersigned. A copy of the docket record showing where the non-received Notice of Allowance would have been entered had it been received and docketed is

03/07/2006 TL0111 00000055 233000 09456211  
01 FC:1452 500.00 CR

Page 1 of 2  
Serial No. 09/456,211  
Petition to Withdraw Notice of Abandonment  
Responsive to Notice of Abandonment of 02/22/2006  
IBM Docket R0999104  
WH&B IBM/112  
K:\back\112\Report for Withdrawal of Notice of Abandonment.rpt

PAGE 3/8 \* RCVD AT 3/6/2006 4:22:22 PM (Eastern Standard Time) \* SVR:USPTO-EFAXF-2113 \* DMS:2738300 \* CSID:513 241 6234 \* DURATION (mm-ss):03-56

Adjustment date: 05/09/2006 CKHLOK  
03/07/2006 TL0111 00000055 233000 09456211  
01 FC:1452 500.00 CR

**UNITED STATES PATENT & TRADEMARK OFFICE**  
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>5-9-06</u>		2 Serial/Patent # <u>09/456,211</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
	Extension of Time			\$							
	Notice of Appeal/Appeal			\$							
<input checked="" type="checkbox"/>	Petition	<u>I#W</u>	<u>3-6-06</u>	\$ <u>500</u>							
	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
	Other			\$							
			7 TOTAL AMOUNT OF REFUND	\$ <u>500</u>							
8 TO BE REFUNDED BY:											
10 REASON:		Treasury Check									
	Overpayment	<input checked="" type="checkbox"/> Credit Deposit A/C #:									
	Duplicate Payment	9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; text-align: center;">2</td><td style="width: 20px; text-align: center;">3</td><td style="width: 20px; text-align: center;">--</td><td style="width: 20px; text-align: center;">3</td><td style="width: 20px; text-align: center;">0</td><td style="width: 20px; text-align: center;">0</td><td style="width: 20px; text-align: center;">0</td></tr></table>			2	3	--	3	0	0	0
2	3	--	3	0	0	0					
<input checked="" type="checkbox"/>	No Fee Due (Explanation):										
<u>Petition dismissed as moot so this fee is refundable</u>											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>Charles Steven Brattley</u>		TITLE: <u>Petitioner's Att'y</u>									
SIGNATURE: <u>[Signature]</u>		PHONE: <u>571-272-3203</u>									
OFFICE: <u>Pattition</u>											
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APPROVED: <u>[Signature]</u>		DATE: <u>5/9/06</u>									

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: